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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON**

In re:

Hector E. Loyola & Linda L. Loyola

Debtor

Robert D. Miller Jr., Acting United
States Trustee

Plaintiff

v.

Hector E. Loyola & Linda L. Loyola

Defendants

Case No. 08-04905-PCW7
Chapter 7

Adversary No. _____

UNITED STATES TRUSTEE'S
COMPLAINT TO DENY
DISCHARGE

The United States Trustee, by and through his attorney, James D. Perkins, files this complaint to deny the discharge of the Debtors pursuant to 11 U.S.C. §§727(a)(8). The United States Trustee does so for the following reasons:

A. JURISDICTION

1. Jurisdiction is based upon 28 U.S.C §§ 157 and 1334, and 11 U.S.C. §727.

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B. PARTIES

2. The United States Trustee is a party in interest pursuant to 28 U.S.C. § 581 et. seq., 11 U.S.C. § 307, and 727(c)(1), whose duties include the policing of the bankruptcy system.

3. The Debtors, Hector E. Loyola & Linda L. Loyola, are the defendants in this matter and the debtors in the underlying case within the venue of this court.

C. FACTUAL BASIS

4. On January 10, 2001, the Debtors filed a petition for relief under Chapter 7 of the Bankruptcy Code with this Court under Cause Number 01-00193-PCW7. On December 19, 2001, this Court granted the Debtors a Chapter 7 discharge in that case pursuant to the provisions of §727 of the Bankruptcy Code.

5. On November 22, 2008, the Debtors filed their petition for relief in the underlying case under Chapter 13 of the Bankruptcy Code.

6. On July 8, 2009, the Debtors moved for an order converting the underlying case to one under Chapter 7 of the Bankruptcy Code. That motion was granted on July 9, 2009.

1 **D. GROUNDS FOR DENIAL OF DISCHARGE**

2 **I. Debtors received a prior Chapter 7 discharge less than 8 years before the**
3 **commencement of this case [11 U.S.C. § 727(a)(8)]**
4

5 1. Paragraphs 1 -6 are incorporated as if fully set forth here.
6

7 2. 11 U.S.C. § 727(a)(8) bars a debtor from receiving a Chapter 7
8 discharge in a case if the debtor has previously received a Chapter 7 discharge
9 in a different bankruptcy case which was commenced less than 8 years before
10 the current case.

11 3. The Debtors here received a Chapter 7 discharge in a prior case
12 commenced less than 8 years before this case was commenced. Accordingly,
13 they are not entitled to receive a Chapter 7 discharge in this case.
14

15
16 WHEREFORE, the United States Trustee respectfully asks this Court to enter an
17 order denying the discharge of the Debtors.
18

19 Dated: October 13, 2009
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21 Respectfully submitted,

22 ROBERT D. MILLER JR.
23 Acting United States Trustee

24 /s/ James D. Perkins
25 JAMES D. PERKINS
26 Attorney for the United States Trustee
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